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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JAN CHIPCHASE, PER PERSSON, PETRI PIIPPO,  
TETSUYA YAMAMOTO and MIKKO AARRAS

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Appeal 2009-0915  
Application 10/608,173  
Technology Center 2600

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Decided:<sup>1</sup> March 20, 2009

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Before KENNETH W. HAIRSTON, MAHSHID D. SAADAT,  
and KARL D. EASTHOM, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-16 (App. Br. 2).<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' disclosed invention relates to a repository for a plurality of objects, including a mobile phone and another object. The repository includes wireless communication means for communicating with one of the plurality of objects, and a user interface responsive to the wireless communication means for providing information to a user received in the transferred data. The repository also comprises charging circuitry to charge the mobile phone. (Spec. 2: 1-20; 4: 16-29; Fig. 1).

Exemplary claims 1 and 16 follow:

1. A repository, for a plurality of objects, comprising:
  - a body for supporting simultaneously a plurality of objects including a mobile phone and at least one other object;
  - wireless communication means for communicating with at least one of the plurality of objects to transfer data therefrom; and

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<sup>2</sup> Appellants' Brief (filed March 29, 2007) ("App. Br."), Supplemental Brief (filed June 11, 2007) ("Supp. App. Br."), Reply Brief (filed November 28, 2007) ("Reply Br."), and Second Reply Brief (filed February 19, 2008) ("2<sup>nd</sup> Reply Br.") detail Appellants' position. The first Examiner's Answer (filed September 25, 2007) ("Ans.") and second Answer (filed December 13, 2007) ("2<sup>nd</sup> Ans.") detail the Examiner's position. We rely on the first Answer, finding the second Answer to be cumulative to the first Answer. We thus decline to decide whether the second Answer is an improper Supplemental Answer as alleged by Appellants (2<sup>nd</sup> Reply Br. 2-3). However, the second Answer appears to be merely a replacement of the first in response to a clerical directive (*see* Appeal Center Return, Oct. 11, 2007).

a user interface responsive to the wireless communication means for providing information to a user received in the transferred data.

16. A repository comprising:

a body having a support surface for supporting simultaneously a plurality of objects including a mobile telephone and at least one other object, and charging circuitry, within the body, for recharging a mobile telephone.

The Examiner relies on the following prior art references:

Bork	US 6,255,800 B1	Jul. 3, 2001
Mortenson	US 2005/0046567 A1	Mar. 3, 2005 <sup>3</sup>
Strierner	US 2006/0022796 A1	Feb. 2, 2006 (effectively filed Apr. 18, 2002)

The Examiner rejected claims 1-3, 5-7, 9, 10, and 16 as anticipated under 35 U.S.C. § 102(b) by Bork.

The Examiner rejected claims 4, 8, and 11 as obvious under 35 U.S.C. § 103(a) based on the collective teachings of Bork and Strierner.

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<sup>3</sup> Mortensen was filed on May 17, 2004, after Appellants' filing date for the instant application, June 27, 2003. However, Mortensen is a continuation-in-part of application number 10/667,282, which was filed on September 27, 2003, and which relies on three provisional applications, two of which were filed prior to Appellants' filing date. Appellants do not argue that Mortenson is not prior art. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. 37 C.F.R. § 41.37(c) (1) (vii).

The Examiner rejected claims 12-15 as obvious under 35 U.S.C. § 103(a) based on the collective teachings of Bork and Mortenson.

### CLAIMS 1-3, 5-7, 9, 10 and 16

#### *ISSUES*

Appellants group (App. Br. 4, 7, 9, 10) claims 1, 5, 6, and 10 together, claims 2, 3 and 7 together, and claims 9 and 16 separately. The anticipatory rejection of claims 1-3, 5-7, 9, 10 and 16 based on Bork presents three issues:

Does Bork disclose a repository comprising a body for supporting simultaneously a plurality of objects as set forth in claims 1 and claim 16, and the wireless communication means and user interface as set forth in claim 1?

Does Bork disclose the detection of proximal objects as set forth in claim 2?

Does Bork disclose a repository in the form of a shelf as set forth in claim 9?

#### *FINDINGS OF FACT (FF)*

1. Appellants provide a dictionary definition of repository as follows: “a place, room, or container where something is deposited or stored.” (App. Br. 20).

2. Appellants state that “[t]he repository 10 has, in this example, the form of a shelf which is attachable to a wall 112, or can be freestanding on another surface, such as a table.” (Spec. 2: 1-2; *see also* Fig. 1).

3. Appellants disclose that objects supported by the repository include coins and keys, for example. (Spec. 2: 14-16).

4. Bork discloses a cradle 46 for supporting, charging, and communicating with a mobile phone 54 and other devices such as PDAs, pagers, or other short distance portable phones. The mobile phone 54 communicates wirelessly (at least when the phone is not inserted in the cradle) via its Bluetooth transceiver and antenna 42 to the receptacle antenna 42 and Bluetooth transceiver 44, and ultimately to the computer 10 (PC). The receptacle transceiver 44 communicates with the PC 10 via data and power cable 12 connected therebetween. Other devices, including PDAs, keyboards, or Bluetooth radio device 50, can communicate with the transceiver 44 and ultimately the PC, whether or not phone 54 is in the cradle. All the wireless devices communicating with transceiver 44 in cradle 46 are low power Bluetooth or other types of devices. (Figs. 16, 17; col. 3, ll. 9-25; col. 4, ll. 55-60; col. 5, ll. 35-47; col. 6, ll. 6-13; col. 7, ll. 17-22; col. 8, ll. 37-63; col. 10, ll. 7-18).

5. The PC can determine and list all Bluetooth devices in its vicinity, using a “Bluetooth Advisor” icon (Bork, col. 7, ll. 5-11). The PC has a display, a keyboard, and a processor (Bork, Figs. 16, 17; col. 7, ll. 14-15).

6. The cradle 46 appears flat and shelf-like, and supports an antenna 42 and phone 54, with the ability to support other objects simultaneously. Computer 10, at least when closed, is also flat and shelf-like (Bork, Fig. 17).

#### *PRINCIPLES OF LAW*

“[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In*

*re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

During examination of a patent application, a claim is given its broadest reasonable construction consistent with the specification. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). “[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). “The problem in this case is that the appellants failed to make their intended meaning explicitly clear.” *In re Morris*, 127 F.3d 1048, 1056 (Fed. Cir. 1997). “It is the applicant’s burden to precisely define their invention, not the PTO’s.” *Id.*

## ANALYSIS

### Claims 1, 5, 6, 10, and 16

Appellants’ arguments (App. Br. 6, 10, 11) focus on claims 1 and 16.<sup>4</sup> With respect to both claims, Appellants’ argument that the Examiner erred in finding (Ans. 4, 12) that Bork’s cradle 46 constitutes a body for supporting a phone and at least one other object, such as Bork’s phone 54 and other undisclosed items such as keys, coins or other objects, lacks merit. For example, Bork’s antenna 42, depicted as supported on the cradle in Figure 17, constitutes at least one other object supported by the body (FF 6). As the Examiner reasoned (Ans. 12), Bork’s Figure 17 depicts “plenty of

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<sup>4</sup> Dependent claims 5, 6, and 10 which were not argued separately stand or fall with claim 1.

space” for other objects (FF 6). Claims 1 and 16 only require the ability to support such other objects, and even smaller objects meet the claims, notwithstanding Appellants’ disclosed examples (FF 3). Thus, Bork discloses “a body for supporting simultaneously a plurality of objects,” as set forth in claim 1, and discloses the similar limitation in claim 16. Unless otherwise indicated (*see n.5*), Appellants’ remaining arguments in this section are directed to limitations in claim 1.

Appellants’ argument (Reply Br. 3, 4) that Bork’s PC 10 (including its keypad), does not constitute the user interface of claim 1 because the PC 10 is separate from the cradle 46, is not persuasive. The form of claim 1, listing the body and user interface as separate elements of a repository, indicates that the claim does not require the user interface to be integral, or even directly attached, to the body. As such, the Examiner’s determination (Ans. 5), that Bork’s PC 10 and the receptacle body 46, connected via cable 12, together constitute the repository body and user interface recited in claim 1, is reasonable.

Further, under the doctrine of claim differentiation, *see e.g., Free Motion Fitness, Inc. v. Cybex Int’l, Inc.*, 423 F.3d 1343, 1351 (Fed. Cir. 2005), Appellants’ claim 16, reciting charging circuitry “within the body,” bolsters the finding that claim 1, lacking a similar phrase, does not require the body and user interface to be integral or directly attached. Still further, Appellants’ proffered definition (FF 1) reveals that a repository includes a space or a room. As such, Bork’s PC 10, wire 12, and receptacle 46, or the space circumscribed or defined by one or more of the components, also reasonably constitutes a repository. “The problem in this case is that the appellants failed to make their intended meaning explicitly clear.” *Morris*,



127 F.3d at 1056 (declining to adopt the applicants' definition of integral due in part to "evasiveness" and a "veiled attempt to avoid potential future effects of prosecution history estoppel" which "we cannot condone"). Contrary to Appellants' related argument (2<sup>nd</sup> Reply Br. 3), Bork's failure to refer to the cradle as a repository does not detract from the finding that it constitutes the claimed repository body.<sup>5</sup>

Appellants' remaining arguments (App. Br. 6-7) alleging Bork's failure to disclose "wireless communication means" and a "user interface" as recited in claim 1 are based on the assertion that the telephone 52 does not communicate wirelessly with the computer 10 through the wireless communication means 44. Telephone 54 has separate Bluetooth transceiver (FF 4) while telephone 52 does not (Bork, col. 5, l. 66 to col. 6, l. 13). In that light, the Examiner found (Ans. 4, 5, 12-14) that telephone 54 communicates wirelessly with the computer 10 via the two antennas 42 and wireless communication means 44 and/or 42.

Bork supports the Examiner's findings (FF 4, 5). Data is transferred wirelessly from either the phone 54 or other radio devices 50 to the computer via the antennas 42 and transceiver communication means 44 (FF 4, 5). In addition to the data noted above, the computer system also identifies and lists all the Bluetooth devices in its vicinity (FF 5). Thus, the Examiner's supported findings demonstrate that Bork discloses the "wireless communication means," and "a user interface responsive to the wireless communication means for providing information to a user received in the transferred data," as set forth in claim 1.

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<sup>5</sup> This argument applies to both claims 1 and 16.

Appellants' related argument (App. Br. 6, 7) that communication in Bork occurs via the data connector 38 in the cradle as opposed to wirelessly, assumes the telephone 54 is always in the cradle. The argument also implies that claim 1 requires the telephone and the other devices to be supported on the repository body (or otherwise connected by wire) during communication. To the contrary, claim 1 has no such requirement, and, as discussed *supra*, Bork's telephone 54 communicates wirelessly to the cradle antenna 42 and communication means 44 (at least when the phone is away from the cradle) (FF 4).

Claims 2, 3, and 7

Appellants' arguments (App. Br. 8) with respect to representative claim 2<sup>6</sup> rely in part on the assertion that Bork does not disclose the wireless communication means. This assertion lacks merit, as explained above. Bork discloses such means, including transceiver communication means 44 and/or antenna 42 (FF 4, 5).

Appellants' remaining assertion that the computer/PC 10 cannot sense the Bluetooth device also lacks merit. As also explained above, and as generally found by the Examiner (Ans. 5), the computer system 10/44/42 detects and then lists the devices detected (FF 4, 5). If the devices are out of their limited range, it follows that they cannot be detected and/or listed by the wireless communication means 44 (and/or system 10/44/42). (See Ans. 5, FF 4, 5).

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<sup>6</sup> Dependent claims 3 and 7 which were not argued separately stand or fall with claim 2.

Claim 9

Appellants' argument (App. Br. 9, 10) that Bork's repository body 46 is not "in the form of a shelf" as required by claim 9, lacks merit. Bork's body 46 appears very similar in form to Appellants' box-shaped shelf body. (See FF 1, 6). Appellants' disclosure indicates that a shelf form is attachable to a wall, but it also indicates that the same form exists if the device is on a table (FF 2). Hence, Appellants' reliance (App. Br. 9) on dictionary definitions indicating an attachment requirement for any shelf (between the shelf and a wall) is not persuasive. Bork's repository body 46 (and user interface 10 when closed) are each in the form of a shelf, regardless of whether they are attached to a wall or not (FF 6). Each, like Appellants' similar shelf form, has the ability to be attached to a wall with suitable brackets. The Examiner's definition of a shelf (Ans. 3) also evidences that a "in the form of a shelf" does not require attachment to a wall, and it is consistent with Appellants' Specification.

**CONCLUSION**

Bork discloses a repository comprising a body for supporting simultaneously a plurality of objects as set forth in claims 1 and 16, and the wireless communication means and user interface as set forth in claim 1. Bork also discloses the detection of proximal objects as set forth in claim 2, and a repository in the form of a shelf as set forth in claim 9. Therefore, the Examiner's rejection of claims 1-3, 5-7, 9, 10 and 16 is sustained (*see nn. 4, 6*).

CLAIMS 4, 8, 11, 12-15

*PRINCIPLES OF LAW*

Under § 103, a holding of obviousness can be based on a showing that “there was an apparent reason to combine the known elements in the fashion claimed.” *KSR Int’l v. Teleflex, Inc.*, 127 S. Ct. 1727, 1740-41 (2007). Such a showing requires:

“some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”. . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

*Id.*, 127 S. Ct. at 1741 (*quoting In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida* and *Anderson’s-Black Rock* are illustrative – a court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

*Id.*, at 1740.

If the Examiner’s makes such a showing, the burden then shifts to the Appellants to overcome the *prima facie* case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d at 1445.

“The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection.” *Kahn*, 441 F.3d at 986-987 (citing *Oetiker*, 977 F.2d at 1447). “While computer technology is an exploding one, ‘[i]t is but an even handed application to require that those persons granted the benefit of a patent monopoly be charged with an awareness’ of that technology.” *Dann v. Johnston*, 425 U.S. 219, 229 (1976) (quoting *Graham v. Deere Co.*, 383 U.S. 1, 19 (1966), and holding that data processing in a non-banking context rendered obvious a similar invention directed to banking).

Claims 4, 8, and 11

*ISSUES*

The obviousness rejection of claims 4, 8, and 11 based on Bork and Striemer presents three issues:

Did Appellants demonstrate that the Examiner erred in finding that Bork and Striemer collectively teach: 1) the wireless communication means comprising an RFID, as recited in dependent claim 4; 2) a repository comprising a memory, and a processor for controlling a display of the user interface to display the transferred data, as recited in dependent claim 8; and 3) a repository comprising a display for displaying information received from the mobile phone, as recited in independent claim 11?

*FINDINGS OF FACT (FF)*

7. Striemer discloses an RFID detector module 240 having a wireless Bluetooth interface. The RFID module uniquely identifies the bearer

associated with the device, such as a student, and provides a system computer with the student's location. Striemer discloses that a Bluetooth interface automatically establishes a link to another device and identifies one device to the other. (¶¶ 0046, 0058; Figs. 3, 4).

8. Striemer discloses that displays aid in communication between devices. (¶ 0055).

9. Striemer discloses a module 2400 having an RFID device, a processor, a memory, buttons, and a display for displaying information from and communicating with mobile phones, and various other Bluetooth devices. (¶ 0096-0101; Fig. 24).

## ANALYSIS

### Claim 4

The Examiner found (Ans. 7, 8) that it would have been obvious to employ Striemer's RFID detector in order to identify an object in Bork's system. Appellants do not seasonably challenge this finding. Instead, Appellants assert (App. Br. 12) that "Striemer is from a non-analogous art as compared to Bork."

Appellants' assertion lacks merit. The test for analogous art involves comparing a prior art reference's field of endeavor to an applicant's field; and if that comparison fails, determining whether the reference is pertinent to an applicants' particular problem. *Kahn*, 441 F.3d at 986-987; *In re Wood*, 599 F.2d 1032, 1036 (CCPA 1979). As such, Appellants'

comparison of one reference to the other does not address the test properly and thereby fails to demonstrate error.<sup>7</sup>

Further, as Appellants acknowledge, “both disclosures deal, at least in part, with short-range wireless communication” (App. Br. 12). Both references (FF 4, 5, 7-9) and Appellants’ invention, as described by Appellants’ (Supp. App. Br. 2, 3), involve Bluetooth short-range communications and mobile phone devices. Thus, the references and Appellants’ invention involve the same field of endeavor and are, accordingly, analogous under the first prong of *Kahn’s* test.

Additionally, under the second prong, Bork and Striemer are reasonably pertinent to Appellants’ problem addressed by at least some of the limitations of claim 4 – those calling for wireless communication between devices. Appellants fail to articulate in their Briefs which particular problem the claimed invention solves. In any case, wireless communication between devices helps to locate such devices – a problem Appellants indicate (*see* Spec. 1:10-18) that their invention addresses. Appellants’ argument that the two Bluetooth systems cannot be combined because they involve different areas of overlapping art is similar to the argument dismissed in *Dann*. The grant of a “patent monopoly,” *id.*, 425 U.S. at 229, requires Appellants to be charged with the awareness of Bluetooth short-range communications systems, including those involving RFID technology.

As such, “there was an apparent reason to combine the known elements in the fashion claimed,” *KSR*, 127 S. Ct. at 1740-41. Appellants

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<sup>7</sup> Appellants’ do not describe their field of endeavor in their arguments nor explain how that field differs from that of either reference. Asserting one reference is non-analogous to the other does not demonstrate how either reference is non-analogous to Appellants’ field of endeavor.

fail to rebut the Examiner's implicit finding that Bork's similar Bluetooth telephone devices would have predictably benefitted from the addition of Striemer's Bluetooth RFID object tracking devices. Further, Appellants' arguments ignore the principle enunciated in *Leapfrog Enter., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) that "[a]pplying modern electronics to older mechanical devices has been commonplace in recent years." Applying modern RFID devices for automatic tracking, under *Leapfrog*, would have been obvious.

#### Claim 8

Appellants' argument (App. Br. 15) that Bork and Striemer are non-analogous is not persuasive, for reasons explained above. Further, the Examiner found (Ans. 18) that Bork teaches the disputed elements of claim 8, stating, *inter alia* "PC 10 inherently has a memory and a processor for controlling a display of the user interface to display the transferred data." Appellants do not challenge this finding. Bork specifically discloses a processor and display (FF 5). The Examiner also found that Striemer's control devices having a similar display, processor and memory (Ans. 8, 17, 18, FF 9), and that the references collectively teach the disputed limitations.

Appellants' arguments based on alleged failures with respect to claim 1 (App. Br. 15, citing arguments in Section A1 of the Brief), and generally asserting a lack of motivation, fail to demonstrate error with respect to claim 8. Striemer teaches that displays aid in communication (FF 8), thus rendering the combination no "more than the predictable use of prior art elements according to their established functions" *KSR*, 127 S. Ct. at 1740.



Claim 11

Appellants' arguments (App. Br. 18) based on non-analogous art assertions are not persuasive for reasons discussed above. Moreover, Bork, at a minimum, discloses the disputed elements of a repository display in computer 10 that displays information from the mobile phone 54 (FF 4, 5). The Examiner made a similar finding (Ans. 18, referring to responses "(A) and (I)") with respect to a display in claim 8 that Appellants do not challenge, as discussed above. In any case, adding Striemer's similar computer based display (FF 9) to Bork's repository would have involved no more than a predictable combination of known prior art elements. Such a display would have enhanced communication between the devices as the Examiner generally reasoned (Ans. 10, FF 8). Appellants failed to demonstrate error in the Examiner's position.

*CONCLUSION*

Appellants did not demonstrate that the Examiner erred in finding that Bork and Striemer collectively teach: the wireless communication means comprising an RFID, as recited in dependent claim 4; a repository comprising a memory, and a processor for controlling a display of the user interface to display the transferred data, as recited in dependent claim 8; and a repository comprising a display for displaying information received from the mobile phone, as recited in independent claim 11. Therefore, the Examiner's rejection of claims 4, 8, and 11 is sustained.

Claims 12-15

*ISSUE*

The obviousness rejection of claims 12-15 based on Bork and Mortenson presents the following issue: Did Appellants demonstrate that the Examiner erred in finding that Bork and Mortenson collectively teach the limitations of claims 12, 13 and 15?<sup>8</sup>

*FINDINGS OF FACT (FF)*

10. Mortenson discloses that RFID tags may be placed on individual items, pallets, etc., in a cargo container. The tags are read by an RFID reader in a sensor 208. “In this way, cargo shipments can be monitored to determine what cargo has been placed in or removed from a container.” Other sensors in the container 208 can employ Bluetooth technology to transmit any sensed data, or alarms, to a remote sensor. Still other sensors may employ internal battery supplies as a power source for the other sensors. (¶ 0098).

11. Each sensor unit 208 contains a sensor 207, a microprocessor 272, a memory 274, a communications protocol unit 276, an interface 258, and an optional power supply source 278. (¶ 0097).

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<sup>8</sup> Although Appellants group claims 12-14 together in section C1 of their Brief (App. Br. 25), Appellants also inserted an argument related to claim 13 in section C2 titled “Claim 15” (App. Br. 28). However, Appellants’ patentability arguments for claims 12-15 overlap and are accordingly addressed in a similar fashion. Claim 14 stands or falls with claim 13 from which it depends.

ANALYSIS

With respect to claims 12-15, Appellants assert that Mortenson “is from non-analogous art as compared to Bork.” (App. Br. 23). As explained above, Appellants’ improper application of the analogous art test fails to demonstrate error.

Moreover, Mortenson (FF 10, 11) and Bork (FF 4, 5) are involved in the same field of endeavor as Appellants (Supp. App. Br. 2, 3): Bluetooth low power communications devices/systems and power sources for such devices/systems. Appellants acknowledge that both references “deal, at least in part, with short-range wireless communication.” (App. Br. 23). Additionally, Bork and Mortenson are each reasonably pertinent to Appellants’ problems described supra related to locating/tracking devices, and also to providing power thereto.

Accordingly, Appellants’ argument (App. Br. 22-24) asserting a lack of motivation based on characterizing the references as non-analogous art, is not persuasive. Applying Mortenson’s modern RFID devices for automatic tracking, or as the Examiner explained, for monitoring, (Ans. 10, 11, FF 10), under *Leapfrog*, would have been obvious.

Appellants also argue (App. Br. 25, 26) that Mortenson teaches attaching or fixing sensors within containers as opposed to making one a component of the repository. Such a proposed distinction does not distinguish the claims from the prior art. A component that is attached or fixed to a container constitutes a component thereof. Therefore, Appellants’ related teaching away arguments (*id.*), based on cost differences between attached and fixed devices, also must fail. In any case, as explained with

respect to the Examiner's finding regarding claims 1, 8, and 11, Bork also teaches a repository having a communication means as a component thereof.

Moreover, with respect to claims 13 and 15, Appellants do not challenge the Examiner's finding (Ans. 18) that Bork's computer includes a processor, as also explained above (*see e.g.* our findings with respect to claim 8). Our discussion with respect to claim 1 also details the data transfer between the repository/computer and mobile phone. Even if Bork did not teach such a processor in a repository, Mortenson reasonably teaches that radio type devices employ processors (FF 10, 11), thus suggesting an integral processor for Bork's radio/charging repository. Thus, Appellants' mere recitation of elements in claims 13 and 15, and assertion that Mortenson does not teach data transfer to the repository or a repository comprising a processor (App. Br. 28), are not sufficient to demonstrate error in the Examiner's findings.

### *CONCLUSION*

Appellants did not demonstrate that the Examiner erred in finding that Bork and Mortenson collectively teach the limitations of claims 12, 13 and 15. Therefore, the Examiner's rejection of claims 12-15 is sustained (*see* n.8).

### *DECISION*

We affirm the Examiner's decision rejecting claims 1-16.

Appeal 2009-0915  
Application 10/608,173

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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